

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of License 4815 (Application 14416)

Billy E. and Bonnie Wells

**ORDER APPROVING CHANGES IN PURPOSES OF USE AND
ISSUING AMENDED LICENSE**

SOURCE: Unnamed Spring tributary to Grouse Creek thence South Fork Kaweah River

COUNTY: Tulare

WHEREAS:


1. License 4815 was issued pursuant to permitted Application 14416 on October 24, 1957, and was recorded with the County Recorder of Tulare County on October 25, 1957. Recording of this license, and subsequent orders issued thereto, is prescribed by Water Code section 1650.
2. The Division of Water Rights (Division) record of ownership for License 4815 shows the current holder of the license as Billy E. and Bonnie Wells (Licensees).
3. The Division's June 26, 2001 letter informed the Licensees that stockwatering is not a designated use under the license and a petition to change the license is required.
4. The Licensees petitioned to change License 4815 on August 17, 2001 to add domestic and stockwatering as designated purposes of use.
5. The petition was noticed on August 23, 2001 and no protests to approval of the petition were submitted to the Division.
6. The point of diversion is on Federal land. The license should be conditioned to reflect this.
7. The Licensees do not currently conduct mining operations, but have indicated that they may do so in the future. The license should be conditioned to require compliance with any waste discharge requirements imposed by the Regional Water Quality Control Board.
8. The State Water Resources Control Board (State Water Board) has determined that the license shall be amended to include the following specific corrections or changes:
 - a. Domestic and Stockwatering are added as Purposes of Use.
 - b. The license shall not be construed as conferring upon the Licensees right of access to the Point of Diversion.
 - c. The Licensees shall comply with any waste discharge requirements imposed by the Central Valley Regional Water Quality Control Board.

9. The State Water Board standard license terms pertaining to continuing authority, water quality objectives, protection of endangered species, and the need for State Department of Fish and Game stream alteration agreement shall be updated or added to the amended license.
10. The State Water Board has determined the amended license does not constitute an initiation of a new right, and does not injure prior rights or the public trust resources of the State.
11. Pursuant to the provisions of the California Environmental Quality Act, the State Water Board issued a Notice of Exemption (NOE) based on General Rule Exemption pursuant to the California Code of Regulations, Title 14, section 15061 (b)(3). The NOE states:
 - (1) The project will not cause significant adverse impacts on any sensitive environment and will not result in significant cumulative impacts.
 - (2) There are no protests.
 - (3) It appears that there is no possibility that this project may have a significant effect on the environment.

THEREFORE, IT IS ORDERED:

The attached Amended License 4815 is issued, superseding former License 4815 issued on October 24, 1957. The priority of Amended License 4815 is August 3, 1951.

STATE WATER RESOURCES CONTROL BOARD


Victoria A. Whitney, Chief
Division of Water Rights

Dated: **JAN 09 2007**



STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

Amended License for Diversion and Use of Water

APPLICATION 14416
Page 1 of 4

PERMIT 8849

LICENSE 4815

THIS IS TO CERTIFY, That

Billy E. Wells and Bonnie Wells
P.O. Box 44017
Lemon Grove, CA 93244

have the right to the use of the waters of **an Unnamed Spring** in **Tulare County**
tributary to **Grouse Creek thence South Fork of Kaweah River**
for the purpose of **Mining, Domestic and Stockwatering uses.**

Amended License 4815 supersedes the license originally issued on **October 24, 1957**, which was perfected in accordance with the laws of California, the Regulations of the State Water Resources Control Board (SWRCB), or its predecessor, and the terms of **Permit 8849**. The priority of this right dates from **August 3, 1951**. Proof of maximum beneficial use of water under this license was made as of **July 9, 1956** (the date of inspection).

The amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed **0.025 cubic foot per second to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this license shall not exceed 18 acre-feet per year.**

Unless a change is approved by the SWRCB, water used under this license may be diverted, rediverted, and used only as specified below:

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

By California Coordinate System of 1927, Zone 4, North 358,000 feet and East 2,055,700 feet or South 500 feet and East 300 feet from the W $\frac{1}{4}$ corner of Section 35, being within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 35, T18S, R29E, MDB&M.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

Domestic and Stockwatering use both within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 27, T18S, R29E, MDB&M, as shown on map on file with the SWRCB.

Water diverted under this license for Mining use is to be released to Grouse Creek within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 27, T18S, R29E, MDB&M.

(0000111)

This license shall not be construed as conferring upon the licensee right of access to the point of diversion.

(0000022)

In order to prevent degradation of the quality of water, licensee shall comply with any waste discharge requirements imposed by the California Regional Water Quality Control Board, Central Valley Region 5, or by the SWRCB.

(0000100)

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

Reports shall be filed promptly by the licensee on the appropriate forms which will be provided for the purpose from time to time by the SWRCB.

Licensee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms of this license.

Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

If construction or rehabilitation work is required for the diversion works covered by this license within the bed, channel, or bank of the affected water body, the licensee shall enter into a streambed or lake alteration agreement with the State Department of Fish and Game. Licensee shall submit a copy of the agreement, or waiver thereof, to the Division of Water Rights prior to commencement of work. Compliance with the terms and conditions of the agreement is the responsibility of the licensee.

This license is granted and the licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the SWRCB.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

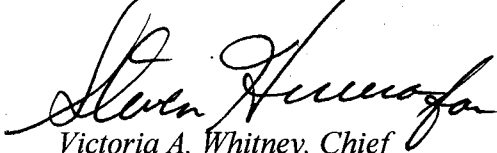
Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

STATE WATER RESOURCES CONTROL BOARD


Victoria A. Whitney, Chief
Division of Water Rights

Dated: JAN 09 2007



STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

APPLICATION 14416

PERMIT 8849

LICENSE 4815

THIS IS TO CERTIFY, That **Levi Pettenger**
Box 57, Three Rivers, California

Notice of Change (Over)

has made proof as of **July 9, 1956**
(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of
an unnamed spring in Tulare County

tributary to **Grouse Creek thence South Fork of Kaweah River**

for the purpose of **mining use**
under Permit **8849** of the State Water Rights Board and that said right to the use of said water has been
perfected in accordance with the laws of California, the Rules and Regulations of the State Water Rights Board and the
terms of the said permit; that the priority of the right herein confirmed dates from **August 3, 1951**;
and that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited
to the amount actually beneficially used for said purposes and shall not exceed **twenty-five thousandths**
(0.025) cubic foot per second to be diverted from January 1 to December 31 of
each year.

The point of diversion of such water is located south five hundred (500) feet and east
three hundred (300) feet from $W\frac{1}{4}$ corner of Section 35, T18S, R29E, MDB&M, being
within $NW\frac{1}{4}$ of $SW\frac{1}{4}$ of said Section 35.

A description of the lands or the place where such water is put to beneficial use is as follows:
Mining and milling within $SE\frac{1}{4}$ of $SE\frac{1}{4}$ of Section 27, T18S, R29E, MDB&M.

Water is released to Grouse Creek within the $SE\frac{1}{4}$ of $SE\frac{1}{4}$ of Section 27,
T18S, R29E, MDB&M.

All rights and privileges under this license including method of diversion, method of use and quantity of water
diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the
interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of
diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time
to time by the State Water Rights Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein
specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

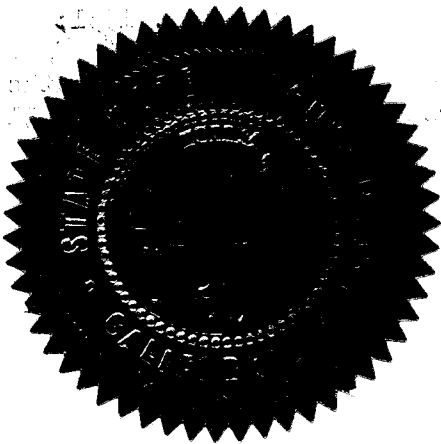
Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: OCT 24 1957

STATE WATER RIGHTS BOARD



By *Leslie C. Jopson*
LESLIE C. JOPSON
Chief Engineer

9-17-75 Records chg'd to Show
Stella G. Pettenger
as owner

5-14-96 Assigned to Billy Wells and Bonnie Wells

LICENSE 4815
STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

LICENSE
TO APPROPRIATE WATER

ISSUED TO Levi Pettenger

OCT 24 1957

DATED

54170 4-57 5M ① SPO

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